

Crossroads

The Quarterly Journal of the County Road Association of Michigan

Volume 3 | Issue 3

Spring 2018

Who owns that tree?

Community meets safety meets the law in the right-of-way

Page 26



IN THIS ISSUE:

- Michigan Wetland Board officially launches
- Regional Waste Hauling Program Win-Win for Road Agencies and Industry



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Crossroads is the quarterly publication of the County Road Association (CRA) of Michigan. The 83 county members of CRA represent the unified, credible and effective voice for a safe and efficient local road system in Michigan.

The Association, headquartered three blocks north of the State Capitol, is dedicated to helping members promote and maintain a safe, efficient county road system including stewardship of the county road right-of-way in rural and urban Michigan.

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IN THIS ISSUE

- 4 PRESIDENT'S CORNER**
- 6 MEMBER PROFILE**
Clinton County Road Commission.
- 10 A NEW PUBLIC-PRIVATE PARTNERSHIP IN MIDLAND COUNTY**
A P3 partnership has led to technology-based weight-restricted bridge testing in Midland County.
- 13 ASK MITA**
"Fix MI State" is educating Michigan residents on the state's crumbling infrastructure.
- 15 LEGISLATOR PROFILE**
Sen. Mike Green discusses the future of the Michigan Wetland Banking Board.
- 18 PROTECTING RURAL ROADS BY GOING UNDERGROUND**
Right-of-way piping of manure from farm to field is helping protect county roads.
- 22 REGIONAL WASTE HAULING PROGRAM**
A regional waste hauling program is making great strides in Roscommon County.
- 24 COMMUNICATION CORNER**
Tips for communicating with residents about tree issues in the public right-of-way.
- 25 BETWEEN THE LINES**
Information on legal issues regarding trees in the right-of-way.
- 27 MIWB: OPEN FOR BUSINESS!**
The Michigan Wetland Banking Board is taking applications from county road agencies.
- 30 EDITOR'S NOTE**

Next Publication

The Summer 2018 issue of *Crossroads* will look at some innovative tools and techniques being used by county road agencies that help make summer construction a breeze.

Crossroads' editorial team wants to hear from you. Call CRA at 517.482.1189 and share your ideas for future issues!

Downloading *Crossroads* is easy!

Downloading issues of *Crossroads* magazine is just a click away. To download an issue of *Crossroads* magazine, simply head to micountyroads.org/Newsroom/Crossroads-Magazine, and click "Download" next to the issue you want to save to your computer.

PRESIDENT'S CORNER



In 2017, we turned a corner. After years of educating our legislators about the deteriorating condition of our roads, the much-needed transportation funding increase has become reality. Finally, we have additional resources to invest in our networks.

Looking ahead, our advocacy must continue. Road agencies must be vigilant in sharing their stories and articulating

to stakeholders how this new funding is translating directly into network improvements. Also, we must clearly define the negative consequences should the Legislature fail to provide the additional \$600 million annually in General Fund dollars promised.

I urge you to use resources provided by partners like the Transportation Asset Management Council and Michigan Local Technical Assistance Program who can help you develop an asset management plan to tell your story about planned improvements, trending network conditions, and additional needs in your county.

This past year, I have been inspired by the dedication that I have seen during my attendance at district council meetings and various conferences throughout the state. While it is true that

the road and bridge networks we maintain are diverse, it is clear that our missions are not: each of us strives to provide the best network possible to the community we serve.

Many of the challenges faced are not unique to any one agency. All of us will continue to battle ongoing issues like those associated with the aforementioned General Fund allocation and growing demand to locate facilities within public right-of-way.

Together, we must stand united, champion our common interests, and ensure that the Michigan Legislature hears our collective voice.

Although my role as president is ending, I remain dedicated to CRA and our ongoing collaborative efforts to advance the needs of county road agencies throughout the state.

Thank you to Denise, Ed and CRA's entire staff for their tireless efforts on our behalf.

Steven A. Warren
CRA President
Managing Director
Kent County Road Commission

CROSSROADS EVENT Calendar

March 13-15

2018 CRA Highway Conference and Road Show

The **2018 Highway Conference** looks to the future of transportation in Michigan. **The Road Show** is Michigan's biggest infrastructure trade show. Both events run concurrently at the Lansing Center, Lansing.

April 15-17

50th Annual Commissioners Seminar

Come celebrate 50 years of the **Commissioners Seminar** at the Bavarian Inn Lodge in Frankenmuth. Programs examine the "Road Commissioner as a Board Member." All county road commissioners and county road department commissioners are encouraged to attend!

May 15-17

2018 Finance & Human Resources Seminar

This year's **Finance & Human Resources Seminar: Innovation Pays Dividends** is set for the Comfort Inn & Suites Conference Center, Mt. Pleasant. Speakers will present new tools and techniques in the F&HR field.

To register for these events and for details on other CRA events, visit www.micountyroads.org/events.

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MEMBER PROFILE

CLINTON COUNTY

Clinton County is an agricultural county with 75,000 residents, many of whom commute to work in the Lansing area, in neighboring Ingham County. The county was named after DeWitt Clinton, a popular Governor and US Senator of New York which was sending many residents westward to the Michigan territory via the Erie Canal by the 1820s.

Managing director **Joseph Pulver**, PE, took over the top spot at the **Clinton County Road Commission (CCRC)** in 2008, after 21 years in various positions with the Ingham County Road Commission.

He runs a ship-shape road commission, with the neatly painted outbuildings, trap rock aggregate in neat pyramids ready for spring, and spare parts stacked in the yard.

Pulver credits the work ethic of CCRC employees, who take immense pride in the road commission's physical facilities and the roads, bridges and rights-of-way for which they are responsible.

In discussing the road commission's facilities, Pulver noted that CCRC's single location is a big advantage to a cooperative work environment.

"There is no competition between staff at different garages, people who don't want to work together because they're competitive within the county," Pulver said.

Relationships are the name of the game

Cooperation is a theme for CCRC's interactions with its stakeholders.

"We know all of our local communities and they know us. We meet with the county

administrator; we meet with the townships and they all know we value their opinions," Pulver said.

CCRC is involved with the county zoning board, Clinton County Officers Association, Clinton County Green Space Committee, the Tri-County Regional Planning Board, and the 11-county West Michigan Mutual Aid Consortium.

CCRC has 16 townships, and while there is no county-wide road millage, five townships have had road-related millages for the last decade.

Pulver and road commissioners meet with their State Representative and Senator over breakfast a few times a year, sharing specific impacts of road funding, weight restrictions, agricultural hauling and unfunded legacy costs.

Addressing unfunded liabilities at the road agency

While county road agencies have only about five percent of Michigan's total \$18 billion in unfunded liabilities (both pension and OPEB), road agencies were included with cities, villages, townships and counties when the Legislature addressed the issue.

JUST THE

Facts:

Clinton County Road Commission

Office headquarters:	St. Johns
Staff:	44 employees
No. of commissioners:	3 (appointed)
Miles of paved roads:	Total: 559 Primary: 329 Local: 230
Miles of unpaved roads:	Total: 621 Primary: 18 Local: 603
MDOT contract:	Yes (242 lane miles)
No. of bridges:	129
Annual budget:	\$14-15 million
Local revenue:	\$3 million
Annual snowfall:	55 inches
CCRC established:	1913
No. of garages:	1
Office built:	1978

FUN FACT:

St. Johns and Clinton County have long been referred to as Michigan's "mint capital." At one time there were up to 60 mint distilleries in the area.





+ A chip seal project on Kinley Rd. near DeWitt Road. curve in Clinton County.

Pulver's pride: Ultra-running

Running a county road agency is a very stressful job with unpredictable weather, equipment breakdowns, complaints from the public and so on.

But compared to a 100-mile run over 33 hours, "running" the road agency may be a walk in the park.

Joe Pulver and his wife, Linda, are both ultra marathon runners. Joe came to the sport as a 40-something, running his first marathon (26.2 miles) in 2002, and entering his first ultra marathon in 2005. The Pulvers run three to five ultra marathons per year.

Most ultra marathons are across rugged terrain. Joe has run the Prussian Mountains in Germany, the desert of McDowell Mountain Regional Park in Arizona, Midwest trails, mountains in California and Utah, and "heartbreak hill" in Boston.

"It's much more than a physical challenge – you can train for that part," Pulver said. "But there's no way you can prepare for the deep mental anguish that always comes 60 to 80 miles in."

Sure puts a long, icy night on the county roads in perspective!

Following up on the Governor's Responsible Retirement Reform for Local Government Task Force, the Legislature focused on governmental entities with pensions that were under 60 percent funded and OPEBs that were less than 40 percent funded.

Speaker Leonard has commended Clinton County and CCRC for addressing unfunded liabilities.

"As recently as 2002 our pension was fully funded," Pulver said. "But then the market dropped, we had some contracts that gave more benefits, and the Legislature didn't handle road funding for so long ... you might call it a perfect storm."

CCRC is climbing out of its unfunded liability deficit thanks to these actions in the last two contract negotiations:

- Creating a health care stipend for retirees capped at 2016 levels;
- Providing health care only for the retired employee;
- Going to direct contribution (DC) for all new hires and health savings accounts (HSA);
- Offering buy-outs for long-time staff converting to a HSA; and
- Moving to a new MERS plan that was a defined benefit (DB)/DC hybrid plan.

The changes were difficult. Through time and seeing what is going on elsewhere, employees have accepted the changes.

From a low of three percent funded on OPEB and 52 percent funded on pension, today CCRC is on the road to have its OPEB funded at 120 percent by 2019; its pension at 70 percent in 2018 and then up to 120 percent by 2024.

Focus on operations through SAM

Pulver is the immediate past-president of the **Superintendents Association of Michigan**, also known as CRA's **SAM Committee** and has served with SAM for over 20 years. The SAM conference each October is the largest specialized conference for CRA members, with a focus on operational issues encountered by road superintendents and foremen.

While SAM is very independent, SAM and CRA believe there are many issues that come up at the Capitol or in statewide efforts that involve or need the expertise of the county road superintendent, Pulver said.

CRA members agree, voting overwhelmingly last March to create SAM as a standing committee of the Association. --



+ Joe Pulver running an ultra marathon in the Sierra Mountain range in California.

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+ *Multi-strain sensors epoxied to a bridge in Midland County.*

Public-private partnership "right-weights" rural bridges

Fifteen minutes and three miles of additional tractor travel to bypass weight-restricted bridges can be a draining task. Farmer Ron Garrett in Midland County, has been making the extra effort to haul his crops around weight-restricted bridges for the last 15 years.

"You have additional wear and tear on the truck because of the additional stop signs on the secondary and gravel roads you have to travel," Garrett said.

As a result of a new "right-weighting" bridge test piloted by the **Midland County Road Commission** this past summer, weight restrictions were removed from three bridges in the southern part of Midland County. Garrett could use bridges that had not been accessible to him since the early 2000s.

Multi-strain sensors: Eliminating detours?

With the shortage of road funds over the years, road agencies have been unable to do much to fix culverts, upgrade bridges or make other fixes to the rural road system.

A new ag-initiated public-private partnership (P3) — dubbed "right weighting" — may provide a better bandage for one small component of the rural road system.

MCRC and the national Soy Transportation Coalition demonstrated the value of working together in a P3 when MCRC partnered with the Michigan Soybean Promotion Committee (MSPC) to test a new method of evaluating bridge load limits.

Using multi-strain sensors, MCRC was able to eliminate weight restrictions for three of its county bridges.

"Once the signs were taken down, we were getting calls asking, 'Is this real?' So farmers were paying attention," said said **Terry Palmer**, PE, MCRC managing director.

How the testing is done

Bridge inspections are conducted by contracted bridge inspectors to assess weight in addition to other structural requirements. A bridge inspector

normally conducts a visual bridge inspection, then uses a standard industry chart to determine load limits.

Multi-strain sensors test the allowable strain on the beams of a bridge. The sensors are epoxied on all beams at the same time to get measurements.

"We still have to use bridge inspectors; however, the sensors are a more accurate way to measure bridges. It's a separate way of calculating what the bridges can carry," Palmer said.

"Engineers are conservative — with bridges we have to be. These sensors allow us to get a little closer to the actual limitations. We have been able to remove weight restrictions so far, but it could go the other way too," Palmer added.

Great Lakes Engineers conducts MCRC's visual bridge inspections. OHM Advisors evaluates the data obtained from the multi-strain sensors. Once this information is obtained, OHM will send the report to MCRC and Great Lakes Engineers for the final written report.

P3 partners split the cost

The MCRC "right-weighting" cost totaled \$20,000, half paid by MCRC and the half by the Soy Transportation Coalition.

"Our committee has set aside money in our budget to do this again in 2018," said Kathy Maurer of MSPC. "The next step would be to figure out which road commission could use an extra one or two."



+ *Multi-strain sensor.*



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Where do Michigan voters stand on infrastructure?

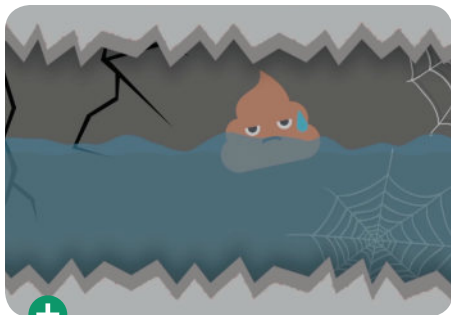
Underneath our roads, schools, businesses and homes, lies a messy problem. And few people are paying attention. Michigan's aging waste and storm water systems at times don't have the capacity to treat wastewater effectively, especially during heavy rainfall or flooding. Which means water and waste doesn't always go where it should.

And that's the theme of the new public education campaign from the Michigan Infrastructure and Transportation Association (MITA): Fix MI State.

Ongoing education

MITA's Fix MI State campaign began in 2016 to address the need for public education on infrastructure, including roads, bridges and underground infrastructure.

"We recognized during and after the road debate we needed to do more ongoing education about all infrastructure, rather than trying to ramp up the process during a funding debate," said MITA's Mike Nystrom, executive vice president and secretary.



"Poop" emoji in the Fix MI State new video.

Fix MI State online

Look for the new Fix MI State "Journey of Number Two" video at bit.ly/FixMIState.

A new Fix MI State video features a familiar emoji making an unexpected journey from the toilet to Michigan's water supply.

In its first 48 hours, the video received over 35,000 social media views and hundreds of comments. Clearly, there's an audience that cares about infrastructure in Michigan, something recent polls reflect.

Infrastructure is issue number one

In a new statewide EPIC MRA poll, Fix MI State asked Michigan voters how they viewed infrastructure problems facing the state.

"Infrastructure is easily the largest concern to voters heading into the 2018 election year," Nystrom said. And this isn't a fluke. "Across the last four polls in the last year and a half, infrastructure has remained the highest priority for Michigan residents."

According to the January 2018 EPIC MRA poll, 89 percent of voters said fixing infrastructure is important and should be a top priority of the new Legislature that will be elected this November.

"Infrastructure has to be top-of-mind for decision makers," "If politicians are in fact running for the people, infrastructure has to be a top priority," Nystrom said.

MICHIGAN'S INFRASTRUCTURE 2017 REPORT CARD



Moment of truth: General Funds for roads

As Fix MI State looks ahead to the future, there's one question on everybody's mind: Will Michigan see the full \$600 million in General Fund dollars for transportation by 2021?

"I do think the Legislature will find the funding by 2021," he said. "The public has spoken, and they demand and expect their elected officials to do their jobs, either by continuing to appropriate money from the General Fund or finding a replacement option like increasing the gas tax or registration fees."

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LEGISLATOR PROFILE

SEN. MIKE GREEN

In 2015, Senator Mike Green introduced Senate Bill 105, creating the Moveable Bridge and Local Agency Wetland Mitigation Bank Fund (MiWB) programs, now Public Act 246 of 2016. Crossroads and CRA's deputy director and legislative liaison **Ed Noyola** sat down with Senator Green to talk about MiWB, along with his path to election and his experience with transportation related issues.

Senator Green serves Michigan's 31st district, representing Bay, Lapeer and Tuscola Counties.

CRA: Senator Green, can you tell us a little bit about your history with transportation issues before being elected to the senate?

SEN. GREEN: I started my political career as a county commissioner for Tuscola County back in the 1980s. In that role, I worked intimately with transportation issues and worked closely with the **Tuscola County Road Commission**. At that time, Tuscola's road commissioners were still appointed, so I also helped oversee appointments for the road commission. After multiple terms as county commissioner an opening arose in the Michigan House of Representatives, so I ran, won and completed my maximum three terms. I had a small hiatus from politics when the Senate 31st District seat office opened. Now, I've been here for seven years.

CRA: Where do you get inside knowledge on transportation issues now?

SEN. GREEN: Whenever transportation issues come up, I reach out to Ed and the Road Association [CRA]. I also have a great relationship with Kirk Stuedle at MDOT. Between the two, I can get a good overall view of how the issue translates statewide. The Michigan Agribusiness Association helps coordinate transportation issue meetings with my constituents to look at current issues as well.

CRA: Can you tell us about working with Ed on the statute creating the Local Agency Wetland Mitigation Bank, or MiWB as we call it?

SEN. GREEN: In my district, I saw a specific funding need for moveable bridges and introduced a bill to get state operational support. Ed made it clear the bill would not get CRA support – ouch!

AUTO REPAIR? FARMER? LOG CABIN SUPPLIER?

Senator Green has worn many hats outside of his career in politics. He spent 30 years at General Motors and operated a farm before later starting a business manufacturing log home components.

But as the bill progressed, Ed made the case for how we can make the bill work for county road agencies by including funding for a local wetland program that would help alleviate some of the issues associated with wetland mitigation.

From my time as county commissioner, I had experience with DEQ [Michigan Department of Environmental Quality] and knew how tough wetland mitigation was so I agreed to add the local wetland program onto the bill.

CRA: Now that the program is up and running, what do you see as the future for MiWB?

SEN. GREEN: The greatest need is going to be more funding. In order to make the program successful and sustainable, I think increased funding will increase the chances of the program's success. Ed told me there will also be a need to amend that section of the law in order to maximize the wetland board's authority and responsibilities.



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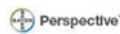


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PROTECTING RURAL ROADS

BY GOING UNDERGROUND

Straddling the fence between accommodating commercial traffic and preserving local roads is a challenge. And that's particularly true with manure hauling on rural roads.

Michigan has more than 15,000 livestock farms spread across 90,000 miles of mostly rural roads that are under county road agency control. While they have been maintained, most rural roads and bridges/culverts haven't had meaningful structural improvements in 50 years.

At the same time, US farms have consolidated, using larger equipment and new techniques to be globally competitive.

An area of significant pressure happens each spring when livestock lagoons are emptied and the waste spread or injected into a farm field when the soil is not frozen.

The repetitive hauling happens just as Michigan roads enter seasonal weight restrictions.

"The beauty of pumping the liquid waste is: For the farmer they're not going through all that trucking fuel; the residents are not dealing with those big, wide tractors on the road; and the road commission is not having to deal with a big, wide piece of equipment damaging the roads."

*Dan Armentrout, PE
Director of Engineering
Clinton County Road Commission*

Some county road agencies and farmers are working together on an innovative process that both accommodates large quantities of manure and protects the road: Right-of-way (ROW) piping from farm to field, also called a liquid manure transfer system.

Waste from farm-to-field via the ROW

Several times a year, farmers use flexible hoses to pump manure out of a pit or lagoon and into a tanker truck or onto a nearby field where it is "injected" below the soil surface. The latter approach is called liquid manure transfer.

At times, livestock producers spread manure on land which is not adjacent to the lagoon, and use pipes and hoses to reach it.

In some areas, farmers are working with county road agencies to pump manure across the road right-of-way (ROW) to more distant parcels. This creative approach takes heavy, repetitive loads off the rural roads.

Crossroads interviewed two county road agencies that are working with producers in this way.

Sanilac County Road

Commission (SCRC) was approached in 2015 by a local dairy farmer who had heard about liquid manure transfer across the ROW from a peer in another state.

Think of it like a subsurface tile running



Liquid manure tank.

along the ROW but not in the public easement, and sometimes bored under the road, said **Bob Armstrong**, SCRC surveyor/assistant engineer.

"When they need to cross the road, we require them to get a Right-of-Way Permit and comply with all applicable state statutes," Armstrong said. "Then we require them to be three feet below where the bottom of the ditch should be. Even if the ditch has filled in, the bottom of the ditch should be two and a half feet; we require them to be another three feet below that. In other words, below the frost line."

"We're happy to have the farmers request this option," said **Rob Falls**, professional engineer (PE), SCRC county highway engineer and manager. "Because then they don't have to haul manure down the road in heavy vehicles, damaging the road."

"Because the farmers are private businesses and not a public utility, if they have to cross another person's property to get to the field where they want to inject manure, they must get the landowner's permission," Armstrong said.

Located in another strong agriculture county, the **Clinton County Road Commission** was probably one of the first

in the state to work with farmers on liquid manure transport.

"Clinton County has several large dairy operations that obviously produce a lot of manure," said **Dan Armentrout**, PE, CCRC director of engineering.

Several Clinton County farmers run pipe across their fields, including fields they rent, and to locations where they have fields on both sides of the road. Sometimes 8-inch PVC pipe is buried underground, and sometimes a flexible hose is used.

As with Sanilac, CCRC requires the producer to get a Work in the Right-of-Way Permit (CRA 100) if he or she needs to cross a road with a piped system.

Armentrout estimates that Clinton County has had dozens of farm drainage tiles running beneath its roads for years, and now has about 10 liquid manure transfer systems.

To cross an unpaved road, CCRC may allow an open trench to bury the pipe. To

get under a paved road, CCRC may recommend boring three feet below ditch level. In either case, CCRC requires that property owners on both sides of the road agree to the pipe crossing and that it be marked with visible stakes.

"The beauty of pumping the liquid waste is: For the farmer they're not going through all that trucking fuel; the residents are not dealing with those large tractors on the road; and the road commission is not having to deal with a big, wide piece of equipment damaging the roads," Armentrout said.

"It is basically a private sanitary sewer line rather than a public utility, so they do not have [statutory] rights to be in the right of way. Although in most cases, the farmer



Underground manure piping bored below a Clinton County road.

does own the land to the middle of the road," Armentrout said.

"The ultimate goal here is to get heavy equipment off the road. Reducing that heavy traffic is good for the roads. It's good for the homeowners who don't have to hear the manure wagon driving up and down the road 20 times a day," Armentrout concluded. "When it works, it's a win-win-win." --



Key transitions at...

...Road Commissions and Departments

Macy Barcheski has joined the **Kent County Road Commission** as finance director.

James McArdle is now sign technician with the **Iosco County Road Commission**.

Mile Marker

Larry Brown, PE, managing director, retired from the **Allegan County Road Commission** after 40 years. Brown also served on the CRA board for three years, as well as the CRA Legislative Review Committee.

Michael Bateson, road worker, retired from the **Barry County Road Commission** after 42 years.

Tom Chaffee, grade crew foreman, retired from the **Barry County Road Commission** after 48 years.

Greg Hull, road worker, retired from the **Barry County Road Commission** after 39 years.

David Sunday, road foreman, retired from the **Clare County Road Commission** after 18 years.

Phil Lechowicz, north foreman, retired from the **Emmet County Road Commission** after 34 years.

William Briggs, material specialist, retired from the **Kent County Road Commission** after 27 years.

Steven Drenth, equipment specialist, retired from the **Kent County Road Commission** after 37 years.

John Strauss, finance director, retired from the **Kent County Road Commission** after 19 years.

John Newton, maintenance supervisor, retired from the **Newaygo County Road Commission** after 27 years.

Brian Seabrook, heavy equipment operator, retired from the **Newaygo County Road Commission** after 29 years.

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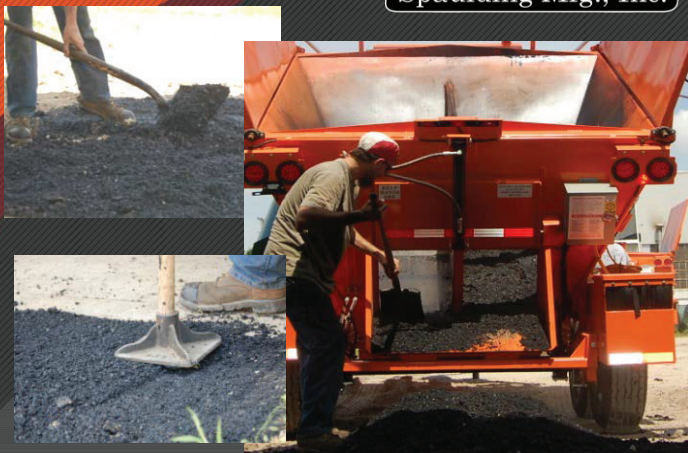
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COLLABORATIVE SPOTLIGHT

Regional Waste Hauling Program is a Win-Win for Road Agencies and Industry

In 2013, Northern Michigan had a bit of a waste problem. That's because seasonal weight restrictions were limiting how much waste could be hauled during frost break up, as county road agencies worked to protect crumbling roads.

Thanks to a new regional program, some Northern Michigan county road agencies have found they can have it both ways, keeping waste hauling running on schedule and protecting the roads.

A new solution emerges

The **Roscommon County Road Commission** (RCRC) set out in 2013 with what sounded like a simple goal: Find a way to protect roads while still delivering citizens the services they need. Easier said than done, as the saying goes.

"We saw the service interruptions and road damage happening in the region with weight restrictions and waste hauling and knew we had to be proactive in approaching the problem," said

Tim O'Rourke, manger, RCRC. "Our approach was that we wanted to fully understand the problem before blindly implementing potential solutions."

RCRC sat down with management from several regional waste haulers with a plan that included using RCRC scales to weigh garbage trucks at different intervals throughout the day.

With a garage full of enthusiastic staff, free coffee and doughnuts for drivers, the waste trucks rolled in, had their loads weighed and continued their routes.

At the end of the day, data in hand, RCRC concluded that if the waste haulers installed larger tires to spread out the weight across the tire tread, there would be minimal impact to the road by waste haulers. This change allowed trucks to haul 90 percent of normal loads during frost season.

The industry got on board and worked with RCRC to make necessary changes under a new safe driving certification program in early 2014 that specified necessary equipment changes for waste hauling during seasonal weight restrictions, and other good road practices that truck drivers should know, like driving in the center of the road instead of along the shoulder.

After certification and new tire installation, RCRC provides waste haulers with as many seasonal permits as the organization needs for \$200. Along with the permits, RCRC encourages local Michigan State Police and Roscommon County Sheriff's Department weighmasters to avoid ticketing certified waste haulers with permits.

A regional approach

As RCRC implemented its certification program, other counties in the region started copying it.

The **Clare County Road Commission** (CCRC), like RCRC, charges one fee for as many seasonal permits as waste haulers in the county need.

As of 2017, road commissions from Gladwin, Iosco and Ogemaw have joined this waste hauler program to ensure roads are protected and pick up services continue.

"For many of these drivers and organizations, they are working in the places they call home," said Hallis Romanky, a Waste Management representative who helps oversee services for Clare, Gladwin, Iosco, Ogemaw and Roscommon counties. "They want to use best practices and help preserve the roads, they just need to be told what those best practices are."

"Many times, industries, counties and partners don't realize or understand that there is a way to compromise and to have everyone to walk out happy," **Deepak Gupta**, PE, engineer manager of CCRC followed up. "We just want to make sure our residents get the best service possible from all sides."

Future meetings

Other road agencies interested in this road agency – waste haulers collaboration may wish to attend a future meeting in Roscommon County. O'Rourke notes that a meeting will be scheduled before spring thaw. Interested road agencies should contact O'Rourke at orourket@roscommoncrc.com.



Northern Michigan road agency managers attend a meeting on collaborating with regional waste haulers. From left to right: Patrick Reinke, managing director, Ogemaw County Road Commission; Deepak Gupta, PE, engineer-manager, Clare County Road Commission; and Bruce Bolen, PE, engineer-manager, Iosco County Road Commission.



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WHO OWNS THAT TREE?

COMMUNICATING ABOUT TREE REMOVAL IN THE RIGHT-OF-WAY

With more than 30 billion square feet of public right-of-way (ROW) under the jurisdiction of county road agencies, head butting over road work taking place in the ROW is bound to happen!

That's probably because the public often believes it owns the ROW — it's their yard — even though the road agency has a permanent easement on it. That "ownership" makes people especially sensitive to ROW projects. Usually people don't understand the original purpose of the ROW either.

CRA spoke with two county road commissions for recommendations when communicating with the public about this hot-button subject.

Seeing in the distance

Trees in the public right-of-way are not only a source of oxygen, but also a source of controversy. A subdivision in Oakland County became the center of a tree-based right-of-way debate last fall.

Lone Pine Village — a subdivision located off primary road Lone Pine and local road Ranch Lane in Bloomfield Township — had two large oak trees on either side of the entryway to the subdivision. Both trees were in the right-of-way which is owned by the **Road Commission for Oakland County (RCOC)**.

In November 2017, a resident of Lone Pine Village contacted

RCOC about trees obstructing drivers' views of oncoming traffic when exiting the subdivision. RCOC traffic engineers assessed the site and concluded the circumstances could be hazardous.

Once the decision to remove the trees was made, communicating with subdivision residents was RCOC's next step.

"We met with the leaders of the subdivision that felt most adamant about this issue as well as the township supervisor and county commissioner," said **Craig Bryson**, RCOC senior manager of communications. "They appreciate our conversation and taking the time to meet with them. It has been a relatively cordial conversation."

The Road Commission offered the subdivision and the township the option of closing Ranch Lane at Lone Pine Road as an alternative to taking down the trees. When it was concluded that the residents did not want to close the road, RCOC removed the trees. It left the lumber to the residents, who plan to make community benches from the wood.

Removing 250 trees along the lake shore

In October 2016, the **Grand Traverse County Road Commission (GTCRC)** began planning for a wedge and overlay project on Bluff Road along the Lake Michigan shore in up-scale Peninsula Township.

The project was part of GTCRC's asset management strategy and required the removal of several trees in the ROW in which it has a permanent easement. In the summer of 2017, as lakeshore property owners returned to their vacation homes to enjoy the long days

RCOC's communication tactics

- Meetings with the subdivision residents.
- Phone calls with township and county officials.
- Letter writing to residents of the subdivision.
- Use of video to illustrate the problem.

GTCRC's communication tactics

- Meeting with the township supervisor.
- Meeting with the newly-elected township board.
- Discussing the project at township meetings.
- Posting notices on residents' doors.
- Posting on social media.
- Sending news releases to the local media.

of summer, problems began brewing between the residents and the road commission over trees flagged for removal.

Several tactics were employed by property owners along 4.3 miles of Bluff Road to prevent the removal of trees including hiring an attorney to file an injunction and a petition to declare Bluff Road a natural beauty road.

GTCRC faced unique communication challenges during the project's lifespan.

A lot of residents along Bluff Road are not on-site year-round.

"There was a lot of confusion with property owners showing

up and trying to direct contractors," said **Jim Cook**, GTCRC managing director. "The contractors said, 'Hey, we're going to put this on hold until you can get it together.'"

The delay cost \$15,000 to \$20,000 in contractor delays.

"We were shooting for the minimum AASHTO standards for a recovery zone in the right-of-way. We removed 250 trees over 4.3 miles," Cook said. "We removed trees in the interest of public safety. I think the people who understand that were eventually okay with tree removal."

Recommendations for communicating with residents:

1. Don't assume the township is communicating with residents. Always have a plan to notify the public.
2. Allow residents all the time they reasonably need to work with your county road agency to either come to an agreeable solution or come to terms with the work that must be completed.
3. If you can use visuals, do so. Visuals always help.

CRA'S Legal Issues Corner

WHO OWNS THAT TREE? LEGAL ISSUES REGARDING TREE REMOVAL IN THE RIGHT-OF-WAY

Trees in the right-of-way can present challenging situations for road agencies. Questions regarding ownership, removal and compensation owed are not always easy to answer. This article provides a very brief primer on the law.

WHO OWNS THE TREE? If an agency owns the road in fee, it also holds title to all trees within the right-of-way. But where an agency owns only an easement for highway purposes, the owner of the abutting land holds title to any trees.

RIGHT TO REMOVE If the agency owns the tree, it has the right to remove it. And even where the road agency does not own the tree, it may still have the right to remove it. Where the agency holds an easement for highway purposes, an abutting owner's title to the tree is subject to the public's interest in safe travel. This provides the agency the right to remove any tree within the right-of-way that obstructs the highway or interferes with travel.

BEFORE YOU CUT Road agencies must, however, provide the owner with notice and a reasonable opportunity to remove the tree before the road agency removes it.

IS COMPENSATION OWED? Some governing municipalities have ordinances requiring compensation to be paid for removed trees. In theory, without such a requirement, a tree within the

right-of-way can be removed without paying compensation to the owner. To avoid unnecessary and costly disputes, consider offering the owner either compensation for the tree or the right to retain the wood, and get the owners' consent in writing.

RISK OF TRESPASS Michigan courts have found there was a trespass where a road agency removed trees that were subsequently determined to be outside of the right-of-way. Similarly, if a court determines that a tree did not actually interfere with the use of the highway, or that sufficient notice was not provided, the road agency could be found liable for trespass. Damages for trespass to cut trees are trebled.

TREES FALLEN INTO THE ROAD: Road agencies have the duty to maintain their roads and keep them safe for public travel. Ultimately, it is the agency's responsibility to remove a tree that falls into the road and it generally has little recourse against the tree's owner. A claim for trespass against the tree's owner would be difficult to prevail upon, because it would require a showing that the owner intentionally caused the tree to obstruct the road.

Unfair as it may seem, the safest course of action is for the road agency to remove the tree at its own cost. And, again, offering the abutting owner the right to retain the wood can avoid a potential dispute.

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Michigan Wetland Board
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Michigan's new local agency wetland mitigation program is up, running and funded

In Mackinac County, there's a road that has been closed more than it's been open. And it's a commuter route with nearly 200 vehicles a day using it to get to jobs, doctors and businesses in between St. Ignace and Hessel.

St. Ignace Road has long been a problem in the area, according to **Dirk Heckman**, PE, engineer-manager of the **Mackinac County Road Commission (MCRC)**. Unfortunately, it's bordered by sensitive wetlands on both sides of the road which has essentially tied the road commission's hands.

"In order for us to fix this road, we need to raise it up. Not only is that expensive, but it requires that we work in the right-of-way which is all wetland for several miles," Heckman said. "We have always hoped we could fix it."

Heckman and his board of commissioners followed progress of the Local Agency Wetland Bank legislation (now PA 246 of

2016) intently, hoping it could be part of the solution to the oft-closed St. Ignace Road.

The bill passed and the Michigan Wetland Bank (MiWB) program for local road agencies was formed last year. When the call for applications was announced last December, Heckman had plans for a Mackinac wetland site ready.

"We have several roads and projects in mind for wetland mitigation, but St. Ignace Road was definitely at the front of our minds," Heckman said.

Running and funded

Now open for business, MiWB was established to help county road agencies, as well as city and village road departments, bring environmental benefits to road projects in delicate wetland habitats. The program is funded at \$2 million a year, with a cap of \$5 million.

"Wetland mitigation was beginning to delay road projects, and it was clear that bottleneck would become an even bigger obstacle with the funding increase from the 2015 Transportation Package," said **Ed Noyola**, CRA deputy director and legislative liaison. "In many cases, even if the road funds are available we cannot legally fix the road until we can afford the costly protection of adjacent wetlands."

Sites developed with MiWB funding are available to local transportation agencies that need mitigation in order to proceed with a transportation project. MDOT has had a similar program for state highway projects for many years.

MiWB's six-member board includes county road agencies and municipal leaders, and is managed by Jeff Silagy, recently retired from the Michigan Department of Environmental Quality employee where he provided environmental reviews of transportation projects in Northern Michigan.

Getting started

MCRC's Heckman advised MiWB applicants to seek Silagy's guidance before starting, as wetland site requirements are different for different types of road, bridge and right-of-way projects.

Those interested in applying for funding for a wetland mitigation site can find evaluation criteria, frequently asked questions, additional informational resources and the application at MiWB.org. At press time, two applications are pending approval by the state MiWB board. ---



Members of the MiWB board from left to right: Cindie Dulaney (administrator), Mike O'Malley, Terry Palmer, PE, Steve Puuri, PE, Marcus Peccia, Jeff Silagy (director), Tim Wolff. Missing board members: Brad Knight and Rob Laitinen.



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EDITOR'S NOTE



CRA was formed on February 28, 1918, in Ann Arbor as the **Michigan Association of Road Commissioners and Engineers**. Over the last year, CRA has recognized the accomplishments and history of this century-old Association.

Statistics show that most businesses fail within the first 10 years. While CRA isn't a traditional for-profit company, the challenges the Association has faced and overcome speaks volumes about

our members and your ability to adapt, innovate and progress throughout the years.

In the 1920s, the wide-scale adoption of automobiles introduced a need for better roads and bridges in Michigan. Fast forward seven decades later, in the 1990s, road funding to maintain local roads — the key to Michigan's economy — was falling short.

The shortfall resulted in the 1997 gas tax increase. Then almost 20 years later, another gas tax increase was approved in 2015. We still don't see enough revenue coming in to restore the roads, but we're finally moving in the right direction.

Times change, but some challenges remain the same: How do county road agencies continue to provide pioneering and cutting-edge services in an efficient manner? We hope the pages of *Crossroads* and the many CRA programs move us ahead.

To strategize for our future, we must never forget our past. As the 100th Anniversary celebration ends, CRA will continue serving Michigan residents with passion and dedication, considering the challenges of today and the possibilities of tomorrow.

Christina Strong

Christina Strong
Editor and Communication Manager

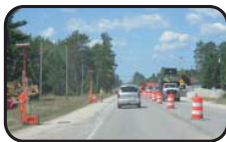


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Mike Rempalski • Local Contract Estimator
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Brett Wainwright • Assistant Branch Manager
Larry Booth • Inside Sales
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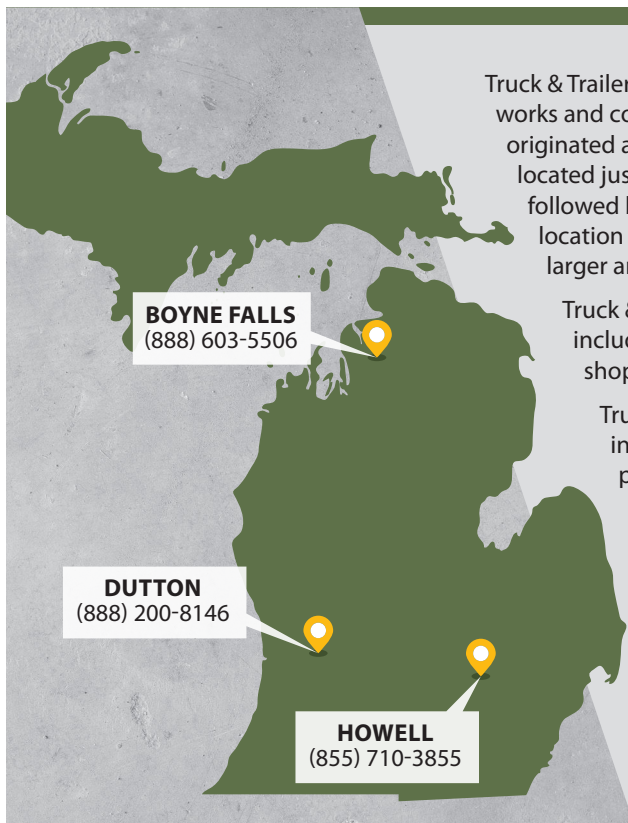
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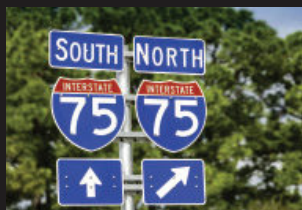
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